

APPENDIX H

AUTOMOBILE GRAVEYARDS AND JUNKYARDS

TITLE 30-A

CHAPTER 183

ECONOMIC REGULATION

SUBCHAPTER I

JUNKYARDS AND AUTOMOBILE GRAVEYARDS

§3751. Purpose

Junkyards and so-called "auto graveyards" have been steadily expanding and frequently encroach upon highways. These junkyards and graveyards have become a nuisance and a menace to safe travel on public ways, often distracting the attention of drivers of motor vehicles because it appears cars are parked on the highway or that an accident has occurred. It is declared that such junkyards and automobile graveyards are a nuisance and are properly subject to regulation and control.

It is recognized that recycling of automobiles is a business enterprise that, when conducted in accordance with certain standards, differs from the enterprise of an automobile graveyard and that adoption of uniform state standards for this type of business enterprise would assist in development and regulation of that business.

Junkyards, automobile graveyards and automobile recycling businesses pose potential risks to the environment, particularly to groundwater and surface water quality if gasoline, oil or other fluids are not managed and disposed of properly. Proper location and operation of these facilities are critical to ensure protection of groundwater and surface water quality, other natural resources and the health and welfare of Maine citizens. These facilities may create nuisance conditions potentially affecting abutting landowners and others if not located and operated properly. For these reasons, it is declared that these facilities are appropriately subject to certain environmental and operational standards and to appropriate municipal and state regulation.

§3752. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Automobile graveyard. "Automobile graveyard" means a yard, field or other outdoor area used to store 3 or more unregistered or uninspected motor vehicles, as defined in Title 29-A, section 101, subsection 42, or parts of the vehicles. "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations.

A. "Automobile graveyard" does not include:

- (1) An area used for temporary storage of vehicles or vehicle parts by an establishment or place of business that is primarily engaged in doing vehicle repair work to make repairs to render a motor vehicle serviceable. In order for a vehicle's storage to be considered temporary, it must be removed from the site within 180 calendar days of its receipt;
- (2) An area used by an automobile hobbyist to store, organize, restore or display antique autos, antique motorcycles, classic vehicles, horseless carriages, reconstructed vehicles, street rods or parts of these vehicles as these vehicles are defined in Title 29-A, section 101 as long as the hobbyist's activities comply with all applicable federal and state statutes and rules and municipal ordinances, other than ordinances that are more restrictive than this subsection regarding the storage of vehicles or vehicle parts that are collected by a hobbyist, except that a municipal ordinance may require areas used by an automobile hobbyist to comply with the screening requirements in section 3754-A, subsection 1, paragraph A and the standards in section 3754-A, subsection 5, paragraph A, paragraph B, subparagraph (1) and paragraph C. For the purposes of this subparagraph, an automobile hobbyist is a person who is not primarily engaged in the business of selling any of those vehicles or parts from those vehicles;
- (3) An area used for the parking or storage of vehicles, vehicle parts or equipment intended for use by a municipality, quasi-municipal entity or state or federal agency;
- (4) An area used for the storage of operational farm tractors and related farm equipment, log skidders, logging tractors or other vehicles exempted from registration under Title 29-A, chapter 5;
- (5) An area used for the parking or storage of vehicles or equipment being offered for sale by a dealer,

equipment dealer, trailer dealer or vehicle auction business as defined in Title 29-A, section 851;

(6) An area used for the storage of vehicles by an establishment or place of business that is primarily engaged in business as a new vehicle dealer as defined in Title 29-A, section 851;

(7) An area used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business; or

(8) An area used for the parking or storage of operational commercial motor vehicles, special equipment or special mobile equipment as defined in Title 29-A, section 101 that is temporarily out of service but is expected to be used by the vehicle or equipment owner or by an operator designated by the owner. This subsection does not exempt an area used for the parking or storage of equipment or vehicles that are not operational while stored or parked in the area.

1-A. Automobile recycling business. "Automobile recycling business" means the business premises of a dealer or a recycler licensed under Title 29-A, sections 851 to 1112 who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, as long as 80% of the business premises specified in the site plan in section 3755-A, subsection 1, paragraph C is used for automobile recycling operations.

A. "Automobile recycling business" does not include:

(1) Financial institutions as defined in Title 9-B, section 131, subsections 17 and 17-A;

(2) Insurance companies licensed to do business in the State;

(3) New vehicle dealers, as defined in Title 29-A, section 851, licensed to do business in the State; or

(4) That portion of the business premises that is used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business.

2. Highway. "Highway" means any public way.

3. Interstate System. "Interstate System" means those portions of the Maine Turnpike and the state highway system incorporated in the National System of Interstate and Defense Highways, as officially designated by the Department of Transportation.

4. Junkyard. "Junkyard" means a yard, field or other outside area used to store, dismantle or otherwise handle:

A. Discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances or furniture;

B. Discarded, scrap and junked lumber; and

C. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material.

5. Primary System. "Primary System" means that portion of the state highway system which the Department of Transportation has by official designation incorporated into the Federal-Aid Primary System.

§3753. Permit required

A person may not establish, operate or maintain an automobile graveyard, automobile recycling business or junkyard without first obtaining a nontransferable permit from the municipal officers of the municipality in which the automobile graveyard, automobile recycling business or junkyard is to be located, or from the county commissioners of the county of any unorganized territory in which the automobile graveyard, automobile recycling business or junkyard is to be located. Permits issued to an automobile graveyard or junkyard under this section are valid until the first day of the following year; except that, beginning in calendar year 2004, permits issued to an automobile graveyard or junkyard under this section are valid until the first day of October of the following year. Permits issued to an automobile recycling business under this section are valid for 5 years from the date of issuance and are renewable provided that the permit holder furnishes a sworn statement, annually, on the anniversary date of the granting of the permit, that the facility complies with the standards of operation applicable at the time of issuance of the permit. A person operating a business that involves the recycling of automobiles may operate under a permit for an automobile graveyard or a permit for an automobile recycling business.

§3754. Hearings

Municipal officers or county commissioners, as provided for in section 3753, shall hold a public hearing before granting a permit to establish a new automobile graveyard, automobile recycling business or junkyard and may hold public hearings annually regarding the relicensing of these facilities. Municipal officers or county commissioners shall require an applicant to provide proof of mailing the notice of the application to all abutting property owners. Municipal officers or county commissioners shall also post a notice of the hearing at least 7 and not more than 14 days before the hearing in at least 2 public places in the municipality or unorganized territory and publish a notice in one newspaper having general circulation in the municipality or unorganized territory in which the automobile graveyard, automobile recycling business or junkyard is to be located. The municipal officers or county commissioners shall give written or electronic notice of the application to establish a new automobile graveyard or automobile recycling business to the automobile dealer licensing section of the Department of the Secretary of State, Bureau of Motor Vehicles by mailing a copy of the application at least 7 and not more than 30 days before the hearing. The municipal officers or county commissioners shall give written notice of the application to the public water supplier if the application is for an automobile graveyard, automobile recycling business or junkyard located within the supplier's source water supply area. The notice may be given by mailing a copy of the application at least 7 and not more than 14 days before the hearing.

§3754-A. Limitations on graveyard, automobile recycling business and junkyard permits

1. Highways; Interstate System and Primary System. A permit may not be granted for an automobile graveyard or junkyard within 1,000 feet of the right-of-way of any highway incorporated in both the Interstate System and Primary System or within 600 feet of the right-of-way of any other highway, except for:

A. Those automobile graveyards or junkyards that are kept entirely screened from ordinary view from the highway at all times by natural objects, plantings or fences. Screening required by this paragraph must be:

- (1) At a height, density and depth sufficient to accomplish complete screening from ordinary view;
- (2) Well constructed and properly maintained at a minimum height of 6 feet;
- (3) Placed outside of the highway right-of-way; and
- (4) Acceptable to the municipal officers or county commissioners; and

B. Those automobile graveyards or junkyards located within areas that have been zoned for industrial use and located more than 600 feet but less than 1,000 feet from the right-of-way of any highway incorporated in both the Interstate System and Primary System.

2. Limitation on new permits. A permit may not be granted for an automobile graveyard or junkyard established after October 3, 1973 and located within 100 feet of any highway.

3. Public facilities. A new permit may not be granted for an automobile graveyard or junkyard that is:

A. Located within 300 feet of a public building, public park, public playground, public bathing beach, school, church or cemetery; and

B. Within ordinary view from a facility under paragraph A.

4. Public and private water supplies. A permit may not be granted for an automobile graveyard, junkyard or automobile recycling business that handles junk, scrap metal, vehicles or other solid waste within 300 feet of a well that serves as a public or private water supply. This prohibition does not include a private well that serves only the automobile graveyard, junkyard, automobile recycling business or the owner's or operator's abutting residence. This prohibition does not apply to wells installed after an automobile graveyard, junkyard or automobile recycling business has already received a permit under section 3753.

Automobile graveyards, junkyards and automobile recycling businesses operating under the terms of permits issued prior to the effective date of this subsection and handling junk, scrap metal, vehicles or other solid waste within 300 feet of wells that serve as public or private water supplies may continue to operate in those locations under the terms of those permits. Municipal officers or county commissioners may renew a permit allowing the continued handling of junk, scrap metal, vehicles or other solid waste within 300 feet of a well serving as a public or private water supply as long as no further encroachment toward the well occurs. The municipal officers or county commissioners may not renew a permit if there is substantial, credible evidence that the permitted activities have caused contamination of the well.

5. Operating standards. All automobile graveyards and junkyards permitted pursuant to section 3753 are required to comply with the following standards:

A. All fluids, including, but not limited to, engine lubricant, transmission fluid, brake fluid, power steering fluid,

hydraulic fluid, engine coolant, gasoline, diesel fuel and oil, must be properly handled in such a manner that they do not leak, flow or discharge into or onto the ground or into a body of water;

B. A vehicle containing fluids may not be stored or dismantled:

(1) Within 100 feet of any body of water or freshwater wetland, as defined by Title 38, section 436-A, subsection 5;

(2) Within the 100-year floodplain; or

(3) Over a mapped sand and gravel aquifer;

C. Junk, scrap metal, vehicles or other solid wastes may not be placed or deposited, directly or indirectly, into the inland waters or tidal waters of the State or on the ice of inland waters or tidal waters or on the banks of inland waters or tidal waters in such a manner that they may fall or be washed into these waters;

D. (CONFLICT: Text as amended by PL 2005, c. 247, §2) Junkyard and automobile graveyard owners must demonstrate at the time of licensing that the facility or facilities for which they seek permits are, or are part of, a viable business entity engaged in the business of salvaging, recycling, dismantling, processing, repairing or rebuilding junk or vehicles for the purpose of sale, trade or personal use;

D. (CONFLICT: Text as amended by PL 2005, c. 424, §4) Junkyard and automobile graveyard owners must demonstrate at the time of licensing that the facility or facilities for which they seek permits are, or are part of, a viable business entity and the facility or facilities are actively engaged in the business of salvaging, recycling, dismantling, processing, repairing or rebuilding junk or vehicles for the purpose of sale or trade.

E. A log must be maintained of all motor vehicles handled that includes the date each vehicle was acquired, a copy of the vehicle's title or bill of sale and the date or dates upon which all fluids, refrigerant, batteries and mercury switches were removed;

F. All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles that lack engines or other parts that render the vehicles incapable of being driven under their own motor power or that are otherwise incapable of being driven under their own motor power, appliances and other items within 180 days of acquisition. Motor vehicles, appliances and other items acquired by and on the premises of a junkyard or automobile graveyard prior to October 1, 2005 must have all fluids, refrigerant, batteries and mercury switches removed by January 1, 2007. Fluids required to be removed under this paragraph must be removed to the greatest extent practicable;

G. Storage, recycling or disposal of all fluids, refrigerant, batteries and mercury switches must comply with all applicable federal and state laws, rules and regulations; and

H. All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles, appliances and other items before crushing or shredding. Fluids required to be removed under this paragraph must be removed to the greatest extent practicable.

6. Rules. A permit, other than a limited-term permit as described in this section, may not be granted for an automobile graveyard or automobile recycling business that is not in compliance with all applicable provisions of the automobile dealer or recycler licensing provisions of Title 29-A, chapter 9. Municipal officers or county commissioners may award a limited-term permit conditioned upon an automobile graveyard's or automobile recycling business's demonstrating compliance with the provisions of Title 29-A, chapter 9 within 90 calendar days of the issuance of the municipal or county limited-term permit.

6-A. Relationship to state storm water requirements. After October 30, 2005, municipal officers or county commissioners may reject an application for an automobile graveyard or automobile recycling business if the applicant has not demonstrated that:

A. A notice of intent has been filed with the Department of Environmental Protection to comply with the general permit provisions for storm water discharges; or

B. The Department of Environmental Protection has determined that a storm water discharge permit is not required.

7. Local ordinances. This subchapter may not be construed to limit a municipality's home rule authority to enact ordinances with respect to automobile graveyards, automobile recycling businesses and junkyards that the municipality determines reasonable, including, but not limited to, ordinances concerning:

A. Compliance with state and federal solid waste and hazardous waste regulations;

B. Fire and traffic safety;

C. Levels of noise that can be heard outside the premises;

D. Distance from existing residential or institutional uses;

E. The effect on groundwater and surface water, as long as municipal ordinances on groundwater are no less stringent than or inconsistent with rules adopted by the Department of Environmental Protection; and

F. Best management practices for automobile graveyards, junkyards and automobile recycling businesses developed by the Department of Environmental Protection.

Municipal officers or county commissioners shall consider compliance with these local ordinances in deciding whether to grant or deny a permit for any automobile graveyard, automobile recycling business or junkyard and in attaching conditions of approval to a permit.

8. Applicability. Municipalities may apply local ordinances adopted previously under subsection 7 pertaining to automobile graveyards and junkyards to an automobile recycling business without amending those ordinances to include automobile recycling businesses. A municipality must provide notice of its intent to apply these ordinances at the time an application for an automobile recycling business permit is filed.

9. Right of entry. Municipal officers or their designees may, to carry out the provisions of this subchapter or to determine compliance with any laws, ordinances, license or permit approvals, decisions or conditions:

A. Enter any automobile graveyard, junkyard or automobile recycling business property and inspect all outside areas, equipment and activities at reasonable hours for compliance with the laws or ordinances set forth in accordance with this subchapter; and

B. Enter any building on the property with the consent of the owner, occupant or agent to inspect the building and activities within the building for compliance with the laws or ordinances set forth in accordance with this subchapter.

A municipal officer's or designee's entry onto property under this subsection is not a trespass.

10. Standard for permit. The municipal officers or county commissioners may issue a permit to an automobile graveyard or junkyard if that automobile graveyard or junkyard meets the operating standards set forth in subsection 5.

For purposes of revocation or suspension of a permit pursuant to section 3758-A, subsection 5, each of the standards set forth in this section is a condition of a permit.

§3755-A. Automobile recycling business permits; operation standards

1. Application. An application for an automobile recycling business permit must include the following information:

A. The name and address of the property owner;

B. The name and address of the person or entity who will operate the site; and

C. A site plan, including:

(1) Property boundary lines;

(2) A description of the soils on the property;

(3) The location of any sand and gravel aquifer recharge areas;

(4) The location of any residence or school within 500 feet of where the cars will be stored;

(5) The location of any body of water on the property or within 200 feet of the property lines;

(6) The boundaries of the 100-year flood plain;

(7) The location of all roads within 1,000 feet of the site;

(8) A plan for containment of fluids, containment and disposal of batteries and storage or disposal of tires; and

(9) The location within the property boundary lines where vehicles are drained, dismantled or stored.

2. Standards for permit. The municipality may issue a permit to an automobile recycling business if the business demonstrates that the business meets the operation standards set forth in subsection 3.

3. Operation standards. An automobile recycling business licensed under this section must meet the following standards.

A. The site of the yard must be enclosed by a visual screen that complies with the screening requirements of section 3754-A.

B. A vehicle containing fluids may not be stored within 100 feet of any body of water or freshwater wetland, as defined by Title 38, section 436-A, subsection 5.

C. A vehicle may not be dismantled or stored within 500 feet of a school, church, cemetery or public playground or park that existed on the date the permit was issued.

D. A vehicle may not be dismantled or stored over a sand and gravel aquifer or aquifer recharge area.

E. A vehicle containing fluids may not be dismantled or stored within the 100-year flood plain.

F. Except as provided in subsection 3754-A, subsection 4, a vehicle may not be dismantled or stored within 300 feet of a well that serves as a public or private water supply, excluding a private well that serves only the automobile recycling business or the owner or operator's abutting residence.

G. A vehicle may not be located or dismantled closer than 20 feet from any lot line, unless the operator has notarized written permission from the abutting property owner.

H. Dismantling of a vehicle must be performed in accordance with the following standards.

(1) Batteries must be removed.

(2) All fluids, including but not limited to engine lubricant, transmission fluid, brake fluid power steering fluid, hydraulic fluid, engine coolant, gasoline, diesel fuel and oil, must be drained into watertight, covered containers and must be recycled or disposed of in accordance with applicable federal and state laws, rules and regulations.

(3) Fluids from a vehicle may not be permitted to flow or be discharged into or onto the ground.

(4) Storage, recycling or disposal of all fluids, refrigerant, batteries and mercury switches must comply with all applicable federal and state laws, rules and regulations.

(5) A log must be maintained of all motor vehicles handled that includes the date each vehicle was acquired, a copy of the vehicle's title or bill of sale and the date or dates upon which all fluids, refrigerant, batteries and mercury switches were removed.

(6) All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles that lack engines or other parts that render the vehicles incapable of being driven under their own motor power or that are otherwise incapable of being driven under their own motor power within 180 days of acquisition. Motor vehicles acquired by and on the premises of an automobile recycling business prior to October 1, 2005 must have all fluids, refrigerant, batteries and mercury switches removed by January 1, 2007. Fluids required to be removed under this subparagraph must be removed to the greatest extent practicable.

(7) All fluids, refrigerant, batteries and mercury switches must be removed from vehicles before crushing or shredding. Fluids required to be removed under this subparagraph must be removed to the greatest extent practicable.

4. Revocation or suspension of permit. For purposes of section 3758-A, subsection 5, each of the standards set forth in this section are conditions of a permit.

5. Relationship to automobile graveyard permit. A person who recycles automobiles but does not qualify for, or loses, an automobile recycling business permit may apply for an automobile graveyard permit.

§3756. Permit fees

The municipal officers or county commissioners shall collect, in advance from the applicant for a permit, a fee in accordance with the following schedule:

1. Graveyard or junkyard. Fifty dollars for each application for an automobile graveyard or junkyard plus the cost of posting and publishing the notice under section 3754;

2. Graveyard or junkyard within 100 feet from highway.

3. Recycling business. Two hundred fifty dollars for a 5-year permit for an automobile recycling business plus the cost of posting and publishing the notice under section 3754; or

4. Fee. A fee as otherwise established by municipal ordinance or rule.

§3757. Provisions regarding nuisances unaffected

This subchapter shall not be construed as in any way repealing, invalidating or abrogating Title 17, section 2802, or limiting the right of prosecutions under that section. Violation of this subchapter in the establishment, maintenance or operation of any automobile graveyard or junkyard constitutes prima facie evidence that the yard is a nuisance as defined in Title 17, section 2802.

§3758-A. Violations

1. Enforcement. All state, county and local law enforcement officers shall enforce the provisions of this subchapter.

2. Municipal authority. Municipal officers or their designees may enforce the provisions of this subchapter pursuant to:

- A. The enforcement of land use laws and ordinances under section 4452;
- B. The litter control provisions of Title 17, chapter 80; or
- C. The abatement of nuisance provisions of Title 17, chapter 91.

3. Penalties. Violations of this subchapter are subject to the penalty provisions of section 4452; Title 17, sections 2264-A and 2264-B; or Title 17, chapter 91. Each day that the violation continues constitutes a separate offense.

4. Abatement. If the municipality is the prevailing party in an action taken pursuant to the provisions of this Title or Title 17 as outlined in subsection 2 and the violator does not complete any ordered correction or abatement in accordance with the ordered schedule, the municipal officers or designated agent may enter the property and may act to abate the site in compliance with the order. To recover any actual and direct expenses incurred by the municipality in the abatement of the nuisance, the municipality may:

- A. File a civil action against the owner to recover the cost of abatement, including the expense of court costs and reasonable attorney's fees necessary to file and conduct the action;
- B. File a lien on real estate where the junkyard, automobile graveyard or automobile recycling business is located; or
- C. Assess a special tax on real estate where the junkyard, automobile graveyard or automobile recycling business is located. This amount must be included in the next annual warrant to the tax collector of the municipality, for collection in the same manner as other state, county and municipal taxes are collected. Interest as determined by the municipality pursuant to Title 36, section 505 in the year in which the special tax is assessed accrues on all unpaid balances of the special tax beginning on the 60th day after the day of commitment of the special tax to the collector. The interest must be added to and becomes a part of the tax.

5. Revocation or suspension of permit. Violation of any condition, restriction or limitation inserted in a permit by the municipal officers or county commissioners is cause for revocation or suspension of the permit by the same authority that issued the permit. A permit may not be revoked or suspended without a hearing and notice to the owner or the operator of the automobile graveyard, automobile recycling business or junkyard. Notice of hearing must be sent to the owner or operator by registered mail at least 7 but not more than 14 days before the hearing. The notice must state the time and the place of hearing and contain a statement describing the alleged violation of any conditions, restrictions or limitations inserted in the permit.

The municipal officers or county commissioners shall provide written or electronic notice of the hearing to the automobile dealer licensing section of the Department of the Secretary of State, Bureau of Motor Vehicles at least 7 days before the hearing.

6. Removal of all materials after permit denial or revocation. The owner or operator of a junkyard, automobile graveyard or automobile recycling business for which a permit has been denied or revoked shall, not later than 90 days after all appeals have been denied, begin the removal of all vehicles, vehicle parts and materials associated with the operation of that junkyard, automobile graveyard or automobile recycling business. The property must be free of all scrapped or junked vehicles and materials not later than 180 days after denial of all appeals. An alternative schedule for removal of junk or vehicles may be employed if specifically approved by the municipal officers or county commissioners.

§3760. Relocation, removal, disposal, compensation and condemnation

1. Acquisition of land. If the Department of Transportation determines that the topography of the land adjacent to any portion of a highway incorporated in the Interstate or Primary Systems does not permit adequate screening under section 3754-A, subsection 1 or that adequate screening is not economically feasible, it may acquire by gift, purchase or condemnation any interests in property that are necessary to secure the relocation, removal or disposal of the automobile graveyards or junkyards.

2. Compensation. In the case of such acquisition, just compensation shall be paid to the owner for the relocation, removal or disposal of the following automobile graveyards and junkyards:

- A. Those which were operating and in existence on May 11, 1966 and located in areas adjacent to any portion of a highway incorporated in the Interstate or Primary Systems, which exceed federal restrictions and for which federal funds are available to defray the costs;
- B. Those in operation along any highway made a part of the Interstate or Primary Systems on or after May 11, 1966; and
- C. Those in operation and established on or after May 11, 1966.

3. Procedures. The purchase, condemnation, negotiation, assessment of damage and appeal procedures shall be in accordance with this section and Title 23, sections 153-A to 159.

4. Use of federal funds. This section does not prevent the department from participating with the owner when federal funds are available to defray costs of screening junkyards whenever it is determined to be more feasible to screen rather than to be involved in the cost or impact of acquisition and relocation.

SUMMARY: Rules regulating the screening of junkyards

.01 Definitions

- A. Automobile graveyard. "Automobile graveyard" as used in this subchapter shall mean a yard, field or other area used as a place of storage, other than temporary storage by an establishment or place of business which is engaged primarily in doing auto body repair work for the purpose of making repairs to render a motor vehicle serviceable, for 3 or more unserviceable, discarded, worn-out or junked motor vehicles as defined in Title 29, section 1, subsection 7, or parts thereof.
- B. Junk yard. "Junk yard" as used in this subchapter shall mean a yard, field or other area used as a place of storage for:
 - 1. Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture;
 - 2. Discarded, scrap and junked lumber;
 - 3. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material; and,
 - 4. Garbage dumps, waste dumps and sanitary fills.
- C. Interstate System. "Interstate System" as used in this subchapter shall mean those portions of the Maine Turnpike and the state highway system incorporated in the National System of Interstate and Defense Highways, as officially designated, or as may hereafter be so designated, by the Department of Transportation.
- D. Primary System. "Primary System" as used in this subchapter shall mean that portion of the state highway system which the Department of Transportation has by official designation incorporated into the Federal-Aid Primary System, or as may hereafter be designated by the Department.
- E. Highway. "Highway" as used in this subchapter shall mean any public way.

.02 Screening

Screening may be accomplished by natural or man-made objects, plantings, or properly constructed fences, any of which must completely screen the junk yard from ordinary view from any portion of any highway within the prescribed distances throughout the entire calendar year, all of which shall be outside of the highway right-of-way limits.

Natural or man-made objects may be interpreted to be:

- 1. Hills, gullies, or embankments. Such man-made objects must be constructed to blend with the landscape with loaming and seeding or

other treatment as may be necessary to establish a natural appearance.

2. Buildings or other installations.
3. Combinations of above.

.03 Plantings

Trees, shrubs, or other vegetation of sufficient height, density and depth of planting or growth to completely screen the junk yard from ordinary view from any highway within the prescribed distance throughout the entire calendar year may be used for screening.

.04 Fences

Fences shall be so located and of sufficient height to completely screen the junk yard from ordinary view from any highway within the prescribed distances. Although the minimum height of any fence is stated to be six feet, it must be emphasized that height must be sufficient to accomplish the complete screening from ordinary view. All fences shall be well constructed and maintained. Only sound undamaged material, uniform in appearance, and erected in a workmanlike manner will be acceptable.

.05 Suggested Materials

Posts: Wood - Sound, round or square, preferably cedar, hackmatack, spruce, or fir. Preservative treatment with creosote oil or cuprinol is suggested. 4" x 4" minimum (square) or 4" minimum diameter (round).

Metal-Steel pipe or structural section steel either galvanized or base coat painted with red lead or other rust inhibitive paint.

All posts to extend a minimum of 4 feet below ground level and to be set plumb. Recommended post spacing 8' to 12'. End and corner posts to be diagonal braced to nearest adjacent post.

Stringers: Minimum 2 x 4 - Spruce or Fir - Sound and free of excessive or weakening knots, and relatively free from warp or wain, preferably treated with creosote or cuprinol after cutting to length. Solidly spiked to wood posts or bolted to metal posts. Three stringers for 6 or 8 foot height of fence, 4 stringers for 10 or 12 foot height. Over 12 foot height would require a special design.

Steel pipe or structural section stringers may be used. These should be either galvanized or base coat painted with red lead or other rust inhibitive paint.

.06 Facing Material

Facing material may be wood, composite, sheet metal or plastic. Although new material will not be a requirement, bent, damaged, poor quality, scrap, discarded, mixed or conglomerate materials will not be acceptable.

Suggested materials would be sound, new or used boards; exterior grade hardboard or plywood; corrugated steel, aluminum, or plastic.

It is suggested that all fastenings be galvanized nails, spikes, bolts, clamps, etc., and that all wood materials be treated with either a creosote oil base stain or cuprinol (with color additive) to preserve and prolong the life of the fence and to present a uniformity of appearance.

Since wind damage is a problem with any fence, bracing may be required and certainly would be essential on any fence over 8 feet in height. In board fence construction, relief of wind pressure may be achieved by placing the boarding alternately on outside and inside of stringers with the spacing to be such that edges overlap enough to present a solid appearance and effectively screen the junk yard from ordinary view.

BASIS STATEMENT: The Department is authorized by 30-A M.R.S.A. §3759 to "make rules and regulations to establish minimum standards for screening of automobile graveyards and junkyards" in order to establish guide lines for municipal officers and county commissioners.

STATUTORY AUTHORITY: 30-A M.R.S.A. §3759.

EFFECTIVE DATE: Adopted on May 15, 1979 and filed on May 16, 1979

EFFECTIVE DATE (ELECTRONIC CONVERSION): April 24, 1996

*HISTORICAL DERIVATION: Enacted May 11, 1966.

NON-SUBSTANTIVE CORRECTIONS: June 29, 1998 - statutory references, formatting.

Model Ordinance

AUTOMOBILE GRAVEYARDS, JUNKYARDS and AUTOMOBILE RECYCLING BUSINESSES

Sec. 1 Purpose.

The purpose of this ordinance is to provide adequate controls to insure that the establishment, operation and maintenance of automobile graveyards, junkyards and automobile recycling businesses do not have a deleterious impact on the natural environment or the public health, safety and general welfare.

Sec. 2 Applicability.

This article shall apply to any automobile graveyard, junkyard or automobile recycling business all or part of which is within (municipality).

Sec. 3 Definitions.

Unless otherwise expressly stated, the following words shall, for the purposes of this article, have the meaning herein indicated:

Aquifer. A geological formation composed of rock or sand and gravel that stores and transmits significant quantities of recoverable water, as mapped by the Maine Geological Survey.

Automobile graveyard. A yard, field or other area used to store three (3) or more unserviceable, discarded, worn-out or junked motor vehicles as defined in 29-A MRSA § 101, subsection 42, or parts of such vehicles. “Automobile graveyard” does not include any area for temporary storage by an establishment or place of business that is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable. “Automobile graveyard” includes an area used for automobile dismantling, salvage and recycling operations.

Automobile Recycling Business. The business premises of a person who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose or resale or for selling the basic materials in the salvage vehicles, provided that eighty (80) percent of the business premises specified in Section 5.B.4 of this ordinance is used for automobile recycling operations.

Classified water body. Classified water body shall include coastal and freshwater wetlands, floodplain wetlands, great ponds and rivers, streams or brooks as defined in 38 MRSA § 480-B.

Floodplain. The low land and relatively flat areas adjoining inland and coastal waters, including floodprone areas of offshore islands, which are inundated by a flood that has a one (1) percent or greater chance of recurring in any year or a flood of magnitude equaled or exceeded once in one hundred (100) years on the average as identified by the Federal Insurance Administration.

Junkyard. A yard, field or other area used as a place of storage for:

- (a) Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture;

- (b) Discarded, scrapped and junked lumber;
- (c) Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material; and
- (d) Garbage dumps, waste dumps and sanitary fills;

All of these materials are hereinafter referred to as "junk".

Sec. 4 Permit Required.

(A) No person shall establish, operate or maintain, and the owner of property shall not permit the establishment, operation or maintenance of any automobile graveyard, junkyard or automobile recycling business all or any part of which is within (municipality) without first obtaining a permit therefore in accordance with the provisions of this ordinance and 30-A MRSA § 3751 et seq.

(B) All permits issued hereunder shall be approved by the municipal officers.

(C) Permits issued hereunder for an automobile graveyard or junkyard shall be for a term not to exceed one (1) calendar year that expires on the first day of the year next following unless earlier suspended or revoked. Permits issued hereunder for an automobile recycling business are valid for five (5) years from the date of issuance and are renewable provided that the permit holder furnishes a sworn statement, annually, on the anniversary date of the granting of the permit, that the facility complies with the standards of operation applicable at the time of issuance of the permit.

(D) A person operating a business that involves the recycling of automobiles may operate under a permit for an automobile graveyard or a permit for an automobile recycling business.

Sec. 5 Administration.

(A) *Contents of application.* All applications for permits under this chapter shall be filed with, and in a form satisfactory to, the municipal officers. Said application shall include, but is not limited to, the following:

- (1) Name and address of the applicant, all other persons having a legal interest in the property and the person or entity who will operate the site.
- (2) The location of the premises for which a permit is sought by identification of tax map number and street address.
- (3) The dimensions and acreage of the property.
- (4) An original and three (3) copies of a site plan, drawn to a scale of one hundred (100) feet or less to the inch which contains the following information:
 - a. The boundary lines of the property for which a permit is sought.
 - b. The location of all existing and proposed buildings and structures.
 - c. The location of all existing and proposed areas within which all vehicles and junk will be located and the location where vehicles will be drained and dismantled, as applicable.
 - d. The location of any aquifer or aquifer recharge area on the property or within one thousand (1,000) feet thereof.
 - e. The location of any classified water bodies on the property or within three hundred (300) feet thereof.
 - f. The location of any floodplain areas located on the property.
 - g. The location and characteristics of all existing and proposed vegetation that is proposed to be maintained for required screening.

- h. The location and characteristics of all existing and proposed fencing that is proposed to be maintained for required screening.
 - i. The locations of any residences, wells, schools, churches, cemeteries, public beaches or public parks or playgrounds within one thousand (1,000) feet of the property.
 - j. The characteristics of the soils existing on the property as determined by the Soil Conservation Service Soils Survey Map.
 - k. The contours of the property as determined by the U.S. Geological Survey Contour Map.
 - l. The location and characteristics of all vehicular entrances and exits serving the property.
 - m. The location of all roads within one thousand (1,000) feet of the site.
- (5) A plan for containment of fluids, containment and disposal of batteries and storage and disposal of tires.
 - (6) A statement as to whether approval by any state agency or department is required pursuant to state law and, if so, the name of said agency or department.
 - (7) A nonrefundable application fee in the amount of _____ (\$_____).
 - (8) A performance guarantee in an amount to be determined by (municipal officers or designated review authority) to be sufficient to rehabilitate and close the site should the owner or operator cease operation. Such performance guarantee shall be in the form of an irrevocable letter of credit, performance bond or similar financial instrument acceptable to (municipal officers or designated review authority).

(B) *Compliance standards.* The municipal officers shall issue a permit under this article for an automobile graveyard, junkyard or automobile recycling business that meets all of the following standards. Such standards shall govern the operation and maintenance of all permitted premises.

- (1) An effective visual screen at least six (6) feet in height shall be located and maintained around all sides of the area where vehicles or junk are to be located such that said areas are entirely screened from ordinary view from all directly abutting properties at all times.
- (2) All screening requirements of 30-A MRSA § 3755 shall be satisfied except that, for automobile recycling businesses, the screening requirements of 30-A MRSA § 3755-A shall be satisfied.
- (3) No vehicle or junk shall be stored within one hundred (100) feet of any classified water body or over a sand and gravel aquifer or aquifer recharge area.
- (4) No vehicles or junk shall be stored within three hundred (300) feet of any school, church, cemetery, public beach or public playground or park except that for an automobile recycling business such distance shall be increased to five hundred (500) feet from a school, church, cemetery or public playground or park that existed on the date the initial permit was issued.
- (5) No vehicles or junk shall be stored within one hundred (100) feet of a residence except the owner or operator's residence.
- (6) No vehicles or junk shall be stored within a floodplain.
- (7) No vehicle or junk may be stored or dismantled within one hundred (100) feet of a well that serves as a public or private water supply, excluding a private well that

serves only the automobile recycling business or the owner or operator's abutting residence. This prohibition does not apply to wells established after the effective date of this ordinance if the automobile graveyard, junkyard or automobile recycling business had already received a permit under Section 4.

- (8) No vehicles or junk shall be located closer than one hundred (100) feet from a public way and fifty (50) feet from all other lot lines of the property except that for an automobile recycling business, a vehicle may not be located or dismantled closer than twenty (20) feet from all other lot lines of the property unless the owner has notarized written permission from the abutting property owner.
 - (9) Upon receiving a motor vehicle, the fuel tank and battery shall be removed and the fuel, engine lubricant, transmission fluid, brake fluid and engine coolant shall be drained into watertight, covered containers and shall be recycled or disposed of according to all applicable federal and state laws, rules and regulations regarding disposal of waste oil and hazardous materials. No discharge of any fluids from any motor vehicle or junk shall be permitted into or onto the ground.
 - (10) All applicable federal and state hazardous waste laws and regulations shall be satisfied.
 - (11) All vehicular entrances and exits shall be located and constructed in a manner that does not create or aggravate a traffic safety hazard.
 - (12) No vibration, glare, fumes or odor shall be emitted which are detectable to the normal senses from any abutting property. (If the municipality has adopted a noise control ordinance, it should be referenced in this subsection)
 - (13) All dismantling of motor vehicles and junk with power tools shall take place within a building.
 - (14) Hours of operation shall reflect the nature of the neighborhood in which the proposed business is to be located (i.e., the hours of operation in an industrial neighborhood would be longer than those in a predominantly residential neighborhood).
- (C) *Conditions of approval.* The municipal officers may impose conditions on the approval of any permit application hereunder to ensure compliance with the provisions of this chapter. Said conditions may include, but are not limited to, the following:
- (1) That, prior to the commencement of operation, the applicant provide documentation that all approvals required from any municipal board or agency have been received
 - (2) That any screening requirements imposed pursuant to the provisions of this ordinance be installed and completed prior to the issuance of any permit hereunder.
- (D) *Nonconforming uses.* Any automobile graveyard, junkyard or automobile recycling business in existence and for which a valid permit was in effect on the effective date of this ordinance may remain in operation in its present location, pending expiration of said permit so long as said use complies with the provisions of 30-A MRSA § 3751 et seq. Any expansion of said junkyard or automobile graveyard beyond the size which existed and for which a valid permit was in effect on the effective date of this ordinance shall comply with all provisions of this ordinance.

Sec. 6 Enforcement.

This ordinance shall be enforced by the municipal officers or their authorized agents in accordance with state law. Any violation of this ordinance shall also be deemed a nuisance within the meaning

of 17 MRSA § 2802 and the violator shall be subject to the penalties set forth on 30-A MRSA § 4452 and any other remedy available at law.

Sec. 7 Suspension or Revocation

The municipal officers may suspend or revoke a permit in accordance with the provisions of (municipal code reference) and 30-A MRSA § 3758(3).

Sec. 8 Severability.

In the event that a Court of competent jurisdiction rules any provision of this ordinance to be invalid, the remaining provisions shall continue in full force and effect. In the event that any provision of this ordinance conflicts with State statute, the State statute shall govern.